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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,867	08/17/2001	George H. BuAbbud	069116.0259	6937

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EXAMINER

TRAN, HAI V

ART UNIT PAPER NUMBER

2623

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/932,867	Applicant(s) BUABBUD, GEORGE H.	
	Examiner Hai Tran	Art Unit 2623	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-5 and 7.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.


HAITRAN
PRIMARY EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues, "the Feldman, et al., patent clearly recites a downstream wavelength of 1.5 μ m and an upstream wavelength of 1.3 μ m. Thus, the Feldman, et al. patent fails to disclose receiving 1st and 2nd wavelengths of light as required by the claimed invention."

In response, the Examiner agrees with Applicant that Feldman discloses a downstream wavelength of 1.5 μ m and an upstream wavelength of 1.3 μ m, respectfully; however, the downstream wavelength of 1.5 μ m is a combination of multiple wavelength λ s represent plurality of services from Local Headend, i.e., Broadcast Video, VOD, telephony, narrowcast video, etc...(see Fig. 5 and 6) transmitted through WMD combiner /2x2 coupler (242, 439) and CDWM of Fig. 2 & 5. As such, Feldman, et al. discloses receiving 1st and 2nd wavelengths of light as required by the invention (see Fig. 6, see Col. 10, lines17-28).

Applicant further argues, "the Feldman, et al. patent fails to transmit light at the 1st wavelength that carries a return plain telephone service telephonic signals with TV related information as provided by the claimed invention."

In response, the Examiner respectfully disagrees with Applicant's argument, for example "to transmit light at the 1st wavelength that carries a return plain telephone service telephonic signals with TV related information" because Applicant's argument is not recited in the claim!

Notes that Claim 1 recites "multiplexing said electrical signals carrying said return plain old telephone service telephonic signals at said 1st frequency band and said TV related electrical signals carrying said TV related electrical signals carrying said TV related information at said 3rd frequency band." It is noted that Beveridge (Fig. 5, 6) clearly disclose the network interface 24 multiplexing the electrical signals carrying the return plain old telephone service telephonic and the TV related information, i.e., interactive video service through the two-way communication network (see Fig. 5, 6; Col. 8, lines 44-52) in which the forward/return POTS telephonic signal is inherently and known to be at different frequency band, i.e., less than 60KHz, than the frequency band of the return signal (or upstream TV signal) carrying the TV related information so to avoid interfering within the customer premise locations 26. As such, Beveridge (NOT Feldman) meets "multiplexing said electrical signals carrying said return plain old telephone service telephonic signals at said 1st frequency band and said TV related electrical signals carrying said TV related electrical signals carrying said TV related information at said 3rd frequency band."

Applicant argues, "the final rejection is premature and that the finality of the present office action be withdrawn" and further argues "Amendments to the claims in response to the previous Office Action did not substantially change the subject matter of the claims to force the Examiner to now use the Beveridge patent in support of the claim rejections."

In response, the Examiner respectfully disagrees with Applicant's above assertion because in view of Applicant remark, page 6 dated 10/03/2005, "By contrast, the Feldman, et al. patent is specifically directed to integrating broadcast cable television services with high-speed Internet access and Internet Protocol telephony. There is no disclosure in the Feldman et al. patent related to integrating plain old telephone service telephony with television signals as provide in the claimed invention". Applicant clearly admitted that limitation "telephonic signals" in Feldman, i.e., Internet Protocol telephony signal, is NOT the same as "plain old telephone service telephonic signal", as Applicant claimed in the amendment. As such, the amended claims clearly change the context/subject matter of the originally presented claims. In view of that the Examiner maintains the finality and believes the final rejection is just and NOT premature, as Applicant asserted.



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